

NOT FOR PUBLICATION**NOV 16 2005**

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

HARPAL SINGH, a/k/a Gary Sukhwal,

Defendant - Appellant.

No. 04-50279

D.C. No. CR-04-00026-PA

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
Percy Anderson, District Judge, Presiding

Submitted November 8, 2005 ^{**}

Before: WALLACE, LEAVY, and BERZON, Circuit Judges.

Harpal Singh, aka Gary Sukhwal, appeals the sentence imposed following his guilty plea to attempted kidnapping while impersonating a federal law enforcement officer in violation of 18 U.S.C. § 1201(a)(1), (a)(3), (d).

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Singh, who was sentenced under the mandatory Sentencing Guidelines before the Supreme Court its issued its decision in *United States v. Booker*, 125 S. Ct. 738 (2005), asserts that the case should be remanded for resentencing under the post-*Booker* advisory Guidelines.

We dismiss the appeal because Singh, in his plea agreement, knowingly and voluntarily waived his right to appeal. *See United States v. Cortez-Arias*, 403 F.3d 1111 (9th Cir. 2005), *as amended*, No. 04-10184, 2005 WL 2401877 (9th Cir. Sept. 30, 2005) (holding that pre-*Booker* waiver of right to appeal precludes appellate relief under *Booker*).

DISMISSED.